



WEB COPY

W.P.No.9932 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.9932 of 2021

&

W.M.P.No.5506 of 2023

R. Rajendran

...

Petitioner

versus

1. Director General of Police,
Chennai 600 004.

2. Deputy Inspector General of Police,
Vellore Range,
Vellore.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified Mandamus to call for the records relating to the impugned order passed by the second respondent herein in his proceedings C.No.B2/10505/2020 in R.O.No.478/2020 dated 11.12.2020 and quash the same and consequently, direct the respondents herein to treat the period of suspension from 28.02.2011 to 19.02.2014 as duty for all the purposes in accordance with Fundamental Rules 54, Rulings-9 and 11 with all consequential monetary and service benefits, within a time frame as deem fit.



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For Petitioner : Mr. G. Bala and Daisy
For Respondents : Mr.G. Nanmaran,
Special Government Pleader

ORDER

Challenging the order passed by the second respondent in C.No.B2/1050/2020 in R.O.No.478/2020 dated 11.12.2020, the present Writ Petition has been filed.

2. The petitioner, who was Office Superintendent working under the control of the 2nd respondent, has been kept under suspension twice for the reason that criminal case is pending against him. The suspension has been reversed on two occasions by virtue of the orders of this Court and thereafter, the criminal proceedings have also been ended in acquittal. The petitioner has not been reinstated subsequent to the judgment of the Court. Once again they gave a representation to the respondent and he has been reinstated into service. Subsequently, disciplinary proceedings have been initiated on the same charge and in the disciplinary proceedings, the



charges against the petitioner have been proved and the petitioner has been imposed with the punishment of cut of pension to the tune of Rs.200/- per month for a period of 12 months and the period for which the petitioner was under suspension has been treated as leave and also extraordinary leave, for which the petitioner is eligible.

3. The learned counsel for the petitioner has submitted that the petitioner has been reinstated subsequent to order of acquittal. Hence, his case ought to have been considered under Ruling 9 and 11 of F.R.54. The Rulings 9 and 11 read as under : (151)

9. Where a Government servant is,—

(a) Placed under suspension in view of the fact that a complaint against him of any criminal offence is under investigation or trial; or

(b) dismissed or removed from service or compulsorily retired on the ground of conduct which has led to his conviction on a criminal charge and the Government servant is subsequently reinstated in service on his acquittal by the Court either on merits or on the ground that the charge has not been proved against him or by giving benefit of doubt or on any other technical ground, or on the ground that he has



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been pardoned by the Court as he turned approver based on his judicial confession, he must be regarded as having been prevented from discharging his duties and the period of his absence including the period of suspension shall be treated as duty for all purposes and he shall be paid full pay and allowances which he would have been entitled to, had he not been under suspension, or dismissed or removed or compulsorily retired from service.

11. When a Government servant is placed under suspension where an enquiry into grave charges against him is pending or contemplated and a criminal proceedings are also instituted simultaneously in respect of the same charges and subsequently he is reinstated into service, the period of suspension shall be—

(i) treated as duty if there is a specific order or direction of a court of competent jurisdiction to this effect notwithstanding the fact that a penalty has been imposed in the departmental inquiry;

(ii) regulated under F.R. 54, only after the final order of the criminal court is delivered in which he is acquitted notwithstanding the fact that departmental enquiry has been finalised and a penalty has also been imposed upon him prior to the finalisation of criminal proceedings.



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By placing reliance upon the above rulings, it is claimed by the petitioner that his period of suspension ought to have been treated as duty for all purposes including the monitory benefits.

4. The learned Special Government Pleader submitted that the appropriate Government Order, under which the petitioner would fall is G.O.Ms.No.261, P & AR(FR.III) Dept., dated 04.08.1992 and that the order of suspension has been rightly issued under FR 54(b) and thus, the period of suspension has been regulated. In this regard, the attention of this Court was drawn to the clarification raised for the application of the Government G.O.Ms.No.261, P & AR(FR.III) Dept., dated 04.08.1992, under which, it is clarified that if an employee has been reinstated on the specific order of direction of the Court, the period of suspension has to be treated as duty though subsequent penalty has been imposed on the employee for the same charges in the departmental action; and in other cases, the period of suspension may be regulated under Fundamental Rule 54.

5. It is not denied by the respondents that the petitioner has been reinstated only on the order of the Court and hence he is squarely falls



under Ruling 9 and 11 of the F.R 54. So it is obligated on the part of the respondents to consider the period of suspension as duty for all purposes including the monetary benefits that would arise and for which the petitioner is eligible.

6. Hence, this Writ Petition is allowed and the impugned order passed by the second respondent in C.No.B2/10505/2020 in R.O.No.478/2020 dated 11.12.2020 is quashed and the respondents are hereby directed to treat the period of suspension as duty and consequently accord all service benefits and monetary benefits to the petitioner and pass appropriate orders and issue sanction and disburse all monetary benefits to the petitioner within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed. No costs.

10.10.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

mrp



To

1. Director General of Police,
Chennai 600 004.

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2. Deputy Inspector General of Police,
Vellore Range,
Vellore.



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R.N.MANJULA, J.

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